

ORIGINAL

ORIGINAL

KENNETH E. HARDMAN

MOIR & HARDMAN  
ATTORNEYS AT LAW  
1828 L STREET, N.W., SUITE 901  
WASHINGTON, D.C. 20036-5104  
FACSIMILE: (202) 833-2416  
kenhardman@ibm.net

DIRECT DIAL: (202) 223-3772

EX PARTE OR LATE FILED

August 9, 1999

*WRITTEN EX PARTE PRESENTATION*

Ms. Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 - 12<sup>th</sup> Street, S.W., TW-A325  
Washington, DC 20554

Re: SBC/Ameritech Merger Proceeding  
CC Docket No. 98-141

RECEIVED  
AUG 9 1999  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Dear Ms. Salas:

Enclosed herewith in duplicate is a written *ex parte* presentation by Trillium Cellular Corp. in the above-referenced proceeding. Trillium attempted to make its filing electronically, but encountered a message that the system had experienced a fatal error and could not process the filing.

Should there be any questions concerning this matter, kindly contact the undersigned.

Very truly yours,

TRILLIUM CELLULAR CORP.



By: Kenneth E. Hardman

Its Attorney

Enclosure

No. of Copies rec'd  
List ABCDE

041

**KENNETH E. HARDMAN**

**MOIR & HARDMAN  
ATTORNEYS AT LAW  
1828 L STREET, N.W., SUITE 901  
WASHINGTON, D.C. 20036-5104  
FACSIMILE: 202-833-2416  
kenhardman@jbm.net**

**DIRECT DIAL: (202) 223-3772**

August 9, 1999

**EX PARTE PRESENTATION**

Ms. Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 - 12th Street, S.W., TW-A325  
Washington, DC 20554

Re: SBC/Ameritech Merger Conditions  
CC Docket No. 98-141

Dear Ms. Salas:

Trillium Cellular Corp. wishes to invite the Commission's attention to the fact that the "Joint Reply of SBC Communications, Inc. and Ameritech Corporation to Comments Regarding Merger Conditions" (the "Joint Reply"), filed in the above-referenced proceeding on July 26, 1999, clearly underscores the need for the relief requested by Trillium and other cellular carriers in Michigan in their comments filed jointly on July 19, 1999. Specifically, Trillium and its colleagues had noted that the underlying purpose of Section IX of the proposed merger conditions is to maintain the status quo concerning Unbundled Network Elements (UNEs) until the disputes over ILECs' underlying obligations to provide them to requesting carriers under Section 251(c)(3) of the Communications Act have been definitively resolved by the Commission in the UNE remand proceeding. Trillium and its colleagues further had pointed out, however, that the intent and purpose of that Section IX would be frustrated in the case of Ameritech's dispute with cellular carriers in Michigan over Extended Local Calling Areas (ELCAs), because Ameritech does not acknowledge that the disputed arrangements constitute the Shared Transport network element as defined by the Commission. Therefore, they requested the Commission to make explicit that Section IX fully applies to these disputed arrangements, regardless of the label Ameritech chooses to apply to them.

SBC/Ameritech's complete discussion of this issue is contained in footnote 84 on page 60 of the Joint Reply, which states in relevant part:

Ameritech maintains that the current billing arrangements between Ameritech and

*Ex Parte Presentation - CC Docket No. 98-141*

Ms. Magalie Roman Salas

August 9, 1999

Page Two

the Joint Cellular Carriers *are simply billing services, not 'shared transport'* as previously defined by the Commission. Moreover, none of the interconnection agreements in effect between Ameritech and any of the Joint Cellular Carriers covers *shared transport*. (Emphasis added).

SBC/Ameritech could not have underscored the Joint Cellular Carriers' point any more clearly. Ameritech chooses to *label* the arrangements set forth in its interconnection agreements as merely "billing services" rather than "shared transport" and, in turn, seeks to avoid Section IX of the proposed merger conditions because the interconnection agreements do not explicitly employ the magic words "shared transport" in describing the disputed arrangements. At a minimum, SBC/Ameritech's position simply begs the question that is before the Commission in the UNE remand proceeding. If the interconnection agreements *had* employed the magic words "shared transport," there presumably would not now be a dispute in the UNE remand proceeding for the Commission to resolve.

The purpose of Section IX is to avoid disruption of existing arrangements until the Commission has definitively resolved the underlying disputes. Having agreed to Section IX as a condition of Commission approval of their merger, SBC and Ameritech should not be permitted to render that section an empty gesture by unilaterally interpreting it out of existence in particular disputes, such as the one between Ameritech and the Joint Cellular Carriers over ELCAs in Michigan.

Respectfully submitted,

TRILLIUM CELLULAR CORP.

By: s/ Kenneth E. Hardman

Kenneth E. Hardman